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ABSTRACT

This report focuses on controversial articles written by the high school press, decisions made by the courts regarding students' press freedoms, and reactions to the articles and rulings. Particular attention is given to two rulings concerning censorship of articles about students' sexual atttiudes and activities, the issue of prior restraint of publications, the problem of determining who is the publisher of the high school newspaper, and the role of the adviser in insuring students' constitutional rights. (GW)

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FREEDOM OF INFORMATION CENTER REPORT NO. 381

HIGH SCHOOL PRESS FREEDOM

This report was written by Diana J. Maurer, an M.A. candidate at the University of Missouri School of Journalism. She is also a high school teacher and newspaper adviser.

In the early seventies, Bob Dylan was singing "the times they are a-changing." Those continually changing times are upon us now and affect the high school press. Accounts of how high school newspapers have changed are reported frequently in newspaper editorials, magazine articles and books. Calvin Zon wrote (Washington *Star*, 5-10-76):

> High school newspapers ain't what they used to be.
>
> Gone are the stories of prom queens, awards, cheerleaders, boosterism and gossip. These days you're more likely to find stories about abortion or drugs or teenage drinking. Or perhaps a stinging editorial attacking a presidential candidate or school budget cuts or the curriculum or the food in the cafeteria.
>
> The tame, chatty in-house organs which steered safely away from controversy have been largely supplanted by publications which take themselves quite seriously and which regularly offend at least some of their readers.

Such a description is more accurate than some school officials, advisers, parents or even professional journalists would like to accept. As noted in earlier Freedom of Information Center Reports—"Student Press Revisited" (No. 260), "High School Press Restrictions" (No. 329) and "Campus Press—Help Is at Hand" (No. 363)—students are fighting for their right of free expression as established by the United States Supreme Court in *Tinker v. Des Moines Independent School District*[1] in 1969. Lower courts have based recent decisions on the major points of the *Tinker* case: (a) those holding unpopular viewpoints have a right to be heard; (b) material and substantial interference with school discipline must exist before prohibiting a particular expression of opinion can be justified; and (c) the burden of justifying restrictions on students' First Amendment rights rests on the regulating authority.[2]

This report will focus on controversial articles written by the high school press, on decisions made by the courts on students' press freedoms and on reactions to the articles and rulings. Particular attention will be given to rulings concerning the scope of prior restraint, to the problem of determining who is the publisher of the high school newspaper and to the role of the adviser in insuring students' constitutional rights.

The Past—A Strong Influence

The ramifications of *Tinker* have been, and will continue to be, important in establishing students' First Amendment rights. Although the case did not deal specifically with the high school press, the courts have applied the *Tinker* test to determine if the censored newspaper itself led to any disruption of the school's schedule. Lawyer Eileen Sullivan notes that the court decisions have held "that the First Amendment right to free expression far outweighs the discomfiture of the school boards and principals."[3] The court "looks first to determine whether a student has been exercising his or her freedom of expression and only then at the reasonableness of the restriction applied to denying that expression."[4]

As positive as the above may seem, not every student who goes the route of the courts is guaranteed a court ruling in his favor. Each case must be decided on its own merits and the outcome is often hard to predict. A U.S. district court stressed that

> First Amendment rights must be balanced against the duty and obligation of the state to educate students in an orderly and decent manner to protect the rights not of a few but all of the students in the school system.[5]

Cases used in this report, in addition to their controversial nature, show the individual elements considered by the lower courts. Until the Supreme Court rules on a high school press case, *Tinker* stands as the precedent.

The changing times are not limited to court decisions. Whenever the high school press is discussed, reference

Summary: No longer content with covering official school activities, high school editors and reporters across the nation have tackled areas of controversy such as drug usage, Viet Nam and sex. Parents and school administrators and faculty have reacted in various ways to a freer expression of student opinion. This report surveys the current state of affairs in high school journalism, with particular attention to recent court interpretations of how the First Amendment applies.

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must be made to *Captive Voices*,[6] a book containing the recommendations of the Commission of Inquiry into High School Journalism. Of all the writings on the high school press, the commission's report was most responsible for bringing to national attention the state of affairs within American schools in regard to school newspapers. The report has been reviewed by nearly everyone connected with school publications, especially students. Indeed, the report can be "a weapon for helping force change wherever change is necessary (as in loosening unreasonable restrictions on staff, or in upgrading programs and facilities)."[7]

Focus on Sex—The Controversy

High school students of the seventies have been raised on the mass media. Their awareness of the national scene naturally transfers to their local community. They are curious about how fellow students feel on national issues. Inquisitively, they have surveyed their peers on such topics as Viet Nam, drugs, alcohol and obscenity. The latest topic of their concern is sex.

Dealing with sex—abortion and birth control, in particular—has raised the concern of school officials. In some systems, 'students and teachers generally comply with instructions rather than risk their student or professional positions."[8] But in other situations, students and advisers fight for their right to publish material which they judge to be relevant and important for their readers, even if that material is controversial.

In the last two years, U.S. district courts have ruled in the students' favor in regard to distribution and publication of results of a questionnaire measuring students' sexual attitudes[9] and publication of an article on students' use of birth control methods.[10]

Many writers have asked why students are writing about sex. Christopher Fager, director of the Student Press Law Center in Washington, D.C., says (*National Observer*, 4-9-77) sex is the latest topic because it reflects current interest. In the same article about sex and high school newspapers, Dr. John Meeks, director of child and adolescent services for the Psychiatric Institute in Washington, D.C., offered two reasons:

1. Sexually active teenagers cry hypocrisy when adults simply "close their eyes" to what's going on.
2. (Students have) a wish to protect their friends and to bring the subject out into the open.

GAMBINO V. FAIRFAX—A Chain of Events

In November, 1976, after Lauren Boyd, editor of the *Farm News* of Hayfield High School, was informed that her article on the results of a survey of "sexually active" students would not be published, she and Gina Gambino, assistant editor, began their fight for publication.

Based on the survey results, Boyd said the lack of birth control information "appears to be one of the main reasons why students at Hayfield do not use contraception."[11] Her article had detailed the merits of various birth control devices and explained where the devices could be obtained.

Sensing the controversial nature of the Boyd article, the adviser of the *Farm News* had shown the article to the school principal. Following the publication of an article on venereal disease in 1974, the adviser had agreed to show the principal all controversial material prior to publication.[12]

> (Ironically, that 1974 article, which contained much information on birth control, was named the outstanding newspaper feature article that year by the Fairfax County school board—on the recommendation of an independent study group appointed by the board.)[13]

The principal of Hayfield High School censored the article for two reasons: it "might be offensive to members of the community and . . . it interferes with a school program, namely the sex-education program"[14] (which explicitly excluded teaching birth control).

Boyd and Gambino first appealed the decision to the Fairfax school superintendent, who referred the complaint to an advisory board. The five-member (three school officials and two students) Advisory Board on Student Expression unanimously voted (Washington *Star*, 12-2-76) to uphold the principal's decision that the article violated a provision in the students' Responsibility and Rights Handbook that read: "students' activities shall relate generally to the school program and not interfere with school operations." Possibly anticipating further legal problems, the advisory board based its decision on the "instructional" merits of the article and removed the objection of "offensiveness" raised by the principal.

However, Boyd did not feel her article fit the above definition. And, she said (Washington *Star*, 12-2-76), "We can't just deal with students' Rights and Responsibilities, but with the Constitution, which is higher than the students' Rights and Responsibilities."

The students' next appeal went back to the superintendent and the Fairfax County School Board. The school board upheld the superintendent in a close vote, 6-4. The vote was "surprising to observers of school operations, and also to Boyd and Gambino, who had expected a unanimous ruling against them."[15] The school board based its decision on the regulations in the students' handbook.

In December, 1976, Vincent Gambino filed a class action suit for the two student editors with the U.S. District Court in Alexandria, Va.[16] The suit contended that the action of the school board violated the students' freedom of speech as guaranteed by the First Amendment of the U.S. Constitution. Attorneys for Gambino argued that the existing handbook of school rules and regulations at Hayfield was too vague about publishing restrictions. Previously, the court had ruled

> A regulation requiring prior submission of material for approval before distribution must contain narrow, objective and reasonable standards by which the material will be judged. . . . (rules must spell out) what is forbidden so that a reasonably intelligent student will know what he may write or what he may not.[17]

The Fairfax School Board argued that the high school newspaper is essentially an "in-house organ" that receives funding and facilities from the board and is distributed to a "captive audience." The board stated that students do not enjoy the same extensive rights as adults and contended that "application of the First Amendment to

a high school newspaper would result in irresponsible and uncontrollable publications."[18]

In February, 1977, the district court ruled that the school board's ban on the publication of the Boyd article was an infringement on the students' First Amendment rights. Judge Albert V. Bryan Jr. wrote for the court:

> While the scope of constitutional freedom may vary with the nature of the environment and the maturity of the individuals affected, the considerations governing the applicability of (the) First Amendment . . . do not change. . . . Either the amendment is operative or it is not.[19]

"Additionally," Judge Bryan wrote, "no evidence, either past or present, of irresponsible journalism supports the board's fears."[20] The students' lawyers had pointed out that the *Farm News* feature on venereal disease, which received the school board's award in 1974, had "contained information on birth control nearly identical to that in the disputed article. . . . No disruption accompanied publication of the 1974 article."[21]

The court found that the *Farm News* "was established as a vehicle for expression." Judge Bryan wrote:

> School regulations and a review of articles published in the past indicate that the instrument was conceived, established, and operated as a conduit for student expression on a wide variety of topics. It falls clearly within the parameters of the First Amendment.[22]

The court thus rejected the board's argument of censoring the article because it considered the paper an "in-house organ." The court pointed out that a governmental body is not

> the unrestrained master of what it creates and fosters. . . . Merely because the school board established and financially supports the paper does not as a matter of law remove the paper from the protection of the First Amendment.[23]

Neither did the district court accept the school board's "captive audience" argument. "In order for students to see the *Farm News* they have 'to act affirmatively to pick up the paper.' "[24] The court continued:

> Finally, the article cannot be suppressed as a violation of the school board's decision not to include birth control in the sex education curriculum. . . . the paper cannot be construed objectively as an integral part of the curriculum.[25]

Judge Bryan did not question (New York *Times*, 2-26-77) the school board's right to make policy. "Such regulation, however, must contain detailed criteria in accordance with relevant court rulings."[26] But the court did not overrule the Fairfax regulations, even though they were not specific. Instead, the court ruled that the board could not ban publication of the disputed article based on the general regulations.

The school board claimed (Washington *Star*, 2-16-77) that it was not preventing expression but merely stopping students from teaching birth control in violation of the school board policy. "I made the mistake of reading the (legal) briefs before I read the article," Judge Bryan was quoted in the Washington *Star*. "It couldn't be more innocuous. It couldn't be more benign."

"Sexually Active Students Fail To Use Contraceptives" by Lauren Boyd has received considerable attention from other high school newspapers in the Virginia area, which have published parts of the article, and from various professional journalists, including reporters for the Washington *Star*, which printed the entire censored article. Miss Boyd's father, in a letter to the editor of the Washington *Star*, said the issue was "adherence to the rules, not sex."[27]

Fairfax County School Board has decided (Washington *Star*, 3-11-77) to appeal the court decision allowing the publication of the article in the school newspaper to the Fourth Circuit Court of Appeals in Richmond. A decision should be reached in the fall of 1977.*

The Student Press Law Center has interpreted (Washington *Post*, 2-25-77) the district court's decision as "a warning to high school administrators in Virginia and elsewhere." Judge Bryan's decision means that high school newspapers are "not editorial puppets of school officials, only printing official points of view," the law center said. Director of the law center Chris Fager said (*National Observer*, 4-9-77), "if necessary we will take the case to the Supreme Court."

Lauren Boyd wonders why the case had to happen. She asks:

> How can it be that we are placed in journalism classes and given to work on the school newspaper and yet are not allowed to practice real journalism? We are supposed to be learning how to write, what to write, and when to write it. How can it be fair to say to us, "wait until you're a little older and out in the community before you can have freedom of expression"?[28]

Dr. Bernard McKenna of the National Education Association evaluated (*National Observer*, 4-9-77) the decision:

> In the long run this is going to help make it possible for teachers and students to discuss topics that for a long time have been taboo. In the meantime it will be disruptive, but isn't that true of most social change? There's such a thing as constructive conflict.

TRACHTMAN V. ANKER—Questioning Sex

The editor of a New York City high school newspaper was denied permission to distribute a questionnaire about sexual attitudes and then to publish the survey results. The editor challenged the board of education's decision, contending that his First Amendment rights were violated.

The district court in *Trachtman v. Anker*[29] ruled in

*Editor's Note: On October 18, the U.S. Court of Appeals for the Fourth Circuit affirmed (*Media Law Reporter*, 10-25-77) by a 2-1 vote the federal district court's decision upholding the right of the student newspaper to publish the article on birth control. According to faculty adviser Stuart Hill, "Sexually Active Students Fail to Use Contraception" will be published (*Editor & Publisher*, 10-29-77) in the paper's November 9 issue.

the student's favor.* The board of education had argued that students could suffer irreparable psychological damage through such a survey. Judge Constance Motley's opinion agreed with the board that forcing students who are emotionally immature to confront difficult issues prematurely should be avoided. But, "This reasoning, the court finds, applies only to students as young as 13 and 14 years of age; therefore, the ban on distribution at this level [eleventh and twelfth grade] does not violate the constitution."[30]

Judge Motley was not convinced of possible harm in respect to junior and senior students. "In fact, it appears that such a questionnaire would have substantial beneficial effects," she wrote. It seemed to the court that:

> the distribution of this questionnaire, which is soberly and responsibly written, is an acceptable way in which to have students present sexual issues to other students free from the debasement of commercialism and sensationalism, and guided by interested parents. The result of answering this survey is likely to produce exactly the opposite of the effect the board fears. Students who are sexually immature or who have certain conflicts would be more likely to resolve these problems if they are faced with basic questions and if they are simultaneously made aware of the fact that many other students have similar problems.[31]

Responding to the board's requirement of parental consent, Judge Motley said that such action "would impose undue burdens on this type of student expression . . . seriously complicate and perhaps frustrate the research project."[32]

The court suggested that the details of distribution, which should incorporate certain safeguards, be worked out through negotiations of interested parties. Judge Motley felt that significant educational benefits could be gained from this student project. "This type of independent investigation should be encouraged and applauded, for an integral goal of our educational system is to stimulate inquiry as well as to impart knowledge."[33]

Prior Restraint

The *Gambino* and *Trachtman* cases have two things in common—both concerned school sponsored newspapers and both dealt with prior restraint, a major complaint of students fighting for their First Amendment rights. At one time, many saw prior restraint as a complaint of only underground newspapers,[34] but both sponsored and unsponsored school publications currently argue against unfair prior approval.

Tinker delineated circumstances under which school authorities may proscribe students' First Amendment rights.

> Public high schools . . . are allowed "reasonable" rules regarding the publication and distribution of the student press; however, they may not suppress student expression unless there is "material and substantial interference" with school operations.[35]

The following cases will be used to illustrate what the courts look for as specific guidelines for the student press.

In the fall of 1973, two student journalists at Woodlawn Senior High School in Baltimore County, Md., were prevented from distributing an underground newspaper on school grounds because school officials objected to material describing cheerleaders as "sex objects." A third student was prevented from distributing a Christmas issue of his newspaper. All three students challenged the Board of Education rules that allowed prior review of underground newspapers by school officials.

In the spring of 1974, a U.S. district court ruled in *Nitzberg v. Parks*[36] that pre-publication censorship of student newspapers was permissible when censorship regulations provided "narrow, objective, and reasonable standards by which materials can be judged." On May 25, 1976, after several rejections, Chief Judge Edward S. Northrop of the district court approved (Washington *Post*, 6-15-76) a seven-page policy for student newspapers in Baltimore County. Attorneys from the American Civil Liberties Union claimed the guidelines allowed official prior restraint and filed suit with the Fourth U.S. Circuit Court of Appeals in Richmond to overturn the previous decision.

The court of appeals reversed the district court. The appeals court felt the board's rules were vague, overbroad and, therefore, unconstitutional. In the court's judgement, the board's rules simply did not provide an adequate definition of the type of student expression prohibited. In its opinion the court:

> —refused to extend the rights of school officials beyond such neutral regulations as are indispensible to the orderly functioning of the school;
>
> —reiterated the right of administrators to block the distribution of material which would cause substantial physical disruption of the school;
>
> —required that rules permitting prior restraint on distribution to avoid disruption must specifically define the term disruption;
>
> —ordered that any procedures calling for prior review of student newspapers must allow students to appear and argue their case in favor of distribution;
>
> —suggested that school officials, before trying to ban a publication, . . . (should hold) free and open discussion with students in an attempt to air and reconcile conflicting points of view.[37]

*Editor's Note: Since this report was written, the U.S. Court of Appeals for the Second Circuit has upheld (46 Law Week 2157) the actions of officials at Stuyvesant High School in prohibiting distribution of the questionnaire to all students. The appeals court said (46 Law Week 2158) the district court's inquiry

> should have been limited to determining whether the school board had demonstrated a substantial basis for their conclusion that distribution of the questionnaire would lead to significant harm to some high school students. . . . When school authorities have reason to believe that students might face such [harmful] consequences, while on school premises, as a result of solicitation of answers to questions, then prohibition of such solicitation is not a violation of any constitutional right of those who seek to solicit.

Several points in *Nitzberg* were echoed in another court decision. In *Leibner v. Sharbough*,[38] student Joshua Leibner of Arlington, Va., was suspended for selling his underground paper, *The Green Orange*, at a football game in violation of the principal's instructions. The principal "believed" that certain parts of the paper were offensive to racial minorities and "could" incite "acts of violence" among students.[39]

Leibner went to court to fight his suspension and the school regulation requiring student publications to "conform to journalistic standards of accuracy, taste, and decency maintained by newspapers of general circulation."[40]

The court ruled that the Arlington regulations were "a monument to vagueness." There were no guidelines or criteria to help define "accuracy," "taste," "decency," "obscenity" and "libelous." In the court's opinion, the ban against the distribution of material "in violation of law or lawful regulation" or for "incitements to crime" was similarly defective.[41]

The procedures of appeal open to Leibner also were found defective. First, no time limit was imposed on the principal while he determined the acceptability of material. Second, the student was never guaranteed an opportunity to present orally his argument for approving the literature.[42]

Leibner and the school board reached an out-of-court settlement whereby Leibner was paid $2,500 in damages for his one-week suspension and the school board agreed to rewrite its regulation on student literature.[43]

The California Supreme Court upheld (New York *Times*, 12-8-76) the decision of the court of appeals when it ruled that state law did not authorize high school administrators to censor underground student newspapers before allowing them to be distributed. Susan Bright brought suit after the principal of University High School in Los Angeles banned publication of an article in the newspaper, *The Red Tide*, without a formal investigation to determine the accuracy of comments about another high school principal in the area.

Justice James A. Colby of the California Court of Appeals said (Los Angeles *Times*, 10-10-75), "Prior restraint of publications because of content thereof is a particularly odious form of censorship and is unconstitutional save in exceptional cases." Speaking for the majority, he indicated that a newspaper serving a community has a conditional privilege to comment on a principal "even though the article may adversely affect the person's reputation."

Not every student who complains of prior restraint is pleased with the court's ruling. When Daniel St. Ledger of Lynwood High School in Los Angeles took his complaint to court, he was reinstated as editor but did not get the disputed articles and cartoons printed in the school newspaper. Judge Norman R. Dowds said (Los Angeles *Times*, 5-19-76):

> . . . at this time there hasn't been sufficient showing that the faculty of the school had relinquished to the students the authority to decide what should go in the limited space of the student newspaper.

Because the faculty seemed to have retained that authority, Judge Dowds said its censorship could not be considered unconstitutional.

In determining prior restraint, the courts have:

1. examined the written regulations of the school board for the specific standards by which material is judged and the specific items that are forbidden;
2. analyzed the procedure for appeal within the school system for "reasonable" time limitations and for opportunity for oral presentation by the students; and
3. studied the history of the publication to determine if it has been a free-speech forum.

In recent rulings, the courts have not distinguished between sponsored and unsponsored newspapers. In the *Nitzberg v. Parks* case and in *Gambino v. Fairfax*, the courts said there was no constitutional basis for distinguishing between sponsored newspapers and free or unofficial newspapers.[44] Basically, the message to school officials is:

> If they intend to regulate literature distributed on school premises, they can do so only with clearly drawn standards for content and procedures that provide a speedy determination of whether a publication meets those standards.[45]

Another Side of Censorship

During America's bicentennial celebration, much was written about various aspects of her history, including a history of prior restraint and the court's defense of the First Amendment. In a New York *Times* column (6-9-76), Fred W. Friendly wrote about "A Rivet in the First Amendment"—*Near v. Minnesota*.[46] Justice Charles Evan Hughes, the swing vote in the 1931 case, wrote:

> The fact that for 150 years there has been almost an entire absence of attempts to impose previous restraints upon publication . . . is significant of the deep seated convictions that such restraints would violate constitutional rights. . . . To require a publisher to prove in court of law truth without malice before publication is the essence of censorship. . . . (The) theory of the constitutional guarantee is that even a more serious public evil would be caused by authority to prevent publication. . . .[47]

In another case,[48] Justice Hughes wrote: ". . . The press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion. . . ." In 1959, Justice Potter Stewart wrote: "The First Amendment guarantee is not confined to the expression of ideas that are conventional or shared by a majority. . . ."[49]

Each case is decided on its own merits. This was the situation when a Chicago ordinance requiring prior approval was deemed constitutional.[50] In a dissenting opinion, Chief Justice Warren said the decision of the court was "a real danger of eventual censorship for every form of communication. . . ."[51] He wrote: ". . . The First Amendment . . . aim was to unlock all ideas for argument, debate and dissemination. No more potent force in defeat of that freedom could be designed than censorship."[52]

Even though these cases involved the professional press and not high school publications, many of the

court's arguments are similar to those being issued in censorship and prior restraint cases that do involve student journalists. Quoting its decision in *Freedman v. Maryland*,[53] the Supreme Court said in a 1975 case "that a system of prior restraint 'avoids constitutional infirmity only if it takes place under procedural safeguards designed to obviate the dangers of a censorship system.' "[54]

Who is the Publisher?

When it comes to the school press, defining the publisher is not an easy task. Depending on who is asked the question, the answer varies. Related to defining the publisher is how the student press views itself. Is it merely an "in-house organ" established to serve as a public relations tool of the school or is it a forum for free speech used to express views on a wide variety of topics?

The school board sees itself as the publisher of sponsored high school newspapers because it subsidizes the paper. The National Association of Secondary School Principals (NASSP) contends (*National Observer*, 4-9-77) that the courts are giving students "license not enjoyed by the adult, commercial press, where the publisher decides what is or isn't printed." NASSP attorney Ivan Gluckman sees "grave peril" if these precedents stand. In the student press decisions, Gluckman says, "the courts are saying that the publisher—because the school board is a branch of the state—cannot exercise such control."

Some advisers agree with the school board's view that allocation of money for publishing a school newspaper gives the board the right to act as publisher.[55] Even some professional journalists see the school as the publisher. In a Washington *Star* column (1-18-77), a writer viewed any other system (than the school as publisher) as "anarchy . . . the end of publishing authority." Continuing, he wrote:

> In high schools and colleges, the institution itself fulfills the publisher's role. So long as student papers live by institutional subsidy, their editors have precisely the same liberty, neither more nor less, as other editors.

The article's headline summarized the author's suggestion for students not satisfied with the school as publisher—"Start Your Own Paper, Kid."

But other advisers see themselves as "consultants" and prefer that the student editors decide what should be published. One adviser believes (Washington *Star*, 5-10-76) "the high school press belongs to the students, who are bound by the same rules and ethics as any other press." Some advisers, indeed, "agonize over the problems involved in trying to assure that the school paper is as responsible as it is free."[56] Other journalists are concerned with what is happening with the student press. "Most school papers exist in a kind of limbo, where neither rights nor responsibilities are clearly articulated."[57]

The courts have never clearly defined who the publisher is. Even in the St. Ledger case in California in which Judge Dowds asked (Los Angeles *Times*, 5-19-76) who had the authority to determine the newspaper's content, no specific answer was given. The right of authority was judged on who then controlled the paper's content and not on who should have controlled the content.

The Adviser's Role

Many advisers censor school newspapers because they see it "as a duty to the school."[58] To avoid censorship problems, Sandra Grasinger urges advisers to:

> 1. Consider the paper's publisher to be the school administration and work within that framework;
> 2. Learn the personal philosophy of the principal and pay him allegiance in print;
> 3. Have respect for all "sacred cows"; and
> 4. Limit the newspapers to news and features that "concern the school and students."[59]

But not all advisers follow the above suggestions. And when advisers stand up for their students' First Amendment rights, some end up discouraged with the system; others find themselves with unrenewed contracts.

Administrators at Southern High School in Louisville, Ky., suppressed an issue on pregnancy and birth control.[60] Students had interviewed Planned Parenthood personnel, a physician and Right to Life representatives. Bech Yunt, adviser of the school paper, the *Southwind*, said she was discouraged at the decision of the school officials. "If you don't teach them (the students) at high school, where will they learn it (press responsibility)?"[61]

In February, 1974, the managing editor of the *Broadcaster*, the Yorktown High School newspaper in Yorktown, Ind., ran a five-story series on sex-related problems, with the adviser's permission.[62] The student writing the articles received encouragement from school officials before beginning the series. But after the first article was published, the adviser, Joan Lentczner, was told that board members had received complaints from a group of parents. At a closed meeting, the board members "expressed concern that the rest of the series would also cause parental criticism."[63] However, despite the discussion in the meeting, Lentczner allowed all five articles to run.

In April, Lentczner received written notice that her contract was not going to be renewed. She brought suit against the board seeking reinstatement and damages. In December of the following year, Lentczner agreed to an out-of-court settlement for $1,000. However, Lentczner said the settlement "does not clear the school board of suspicion, criticism or censure of the scholastic media at the time I was dismissed. . . ."[64] She is now working in Virginia.

Summary

Fager points out that "for student journalists, standing up to school officials is a monumental undertaking."[65] Indeed, students are becoming aware of their rights and, partially because of the trend in court rulings, are willing to fight for their right of expression. An attitude of critical inquiry cannot be developed when students have no rights. As one New York student put it, "What should be a vibrant and challenging experience for those involved becomes an exercise in futility and frustration."[66]

Students "must learn and be taught to make the difficult ethical and legal choices the established press makes every day. . . . Obviously, without the freedom, the concept of responsibility will never be learned."[67] Fortunately, some student journalists are given the opportunity to deal with serious topics. Examples include:

—Investigating the murder of a fellow student,

reporters for *The Lion*, of Lyons Township High School in La Grange, Illinois, produced enough exclusive findings to prompt local police to reopen the case.

—Student journalists for *The Warrior* in Wantagh, New York, did a series of in-depth articles challenging a proposed plan to tie grades to students' attendance records in order to reduce absenteeism. The school dropped the idea after the series pointed out that the plan made no distinction between absence for illness and playing hooky.

——A reporter and photographer team of *The Anvil* staff of Memorial Senior High School in Houston, Texas, went to Washington and interviewed Susan Ford and Senators Lowell Weicker and William Fulbright and ran their story in a section entitled "The *Anvil's* Washington Bureau Reports."[68]

School officials can legally censor obscene, libelous and/or disruptive writings. A definition of what is "disruptive" will be "controversial and may have to go to the Supreme Court for final ruling."[69] But, "where a free, vigorous student press does exist, there is a healthy ferment of ideas and opinions, with no indication of disruption or negative side effects on the educational experience of the school."[70]

What is needed are the "new three R's—Relevance, Reconciliation and Responsibility."[71] Students, advisers and school officials need to work together to establish specific guidelines for publications—both sponsored and alternative (unofficial) newspapers—that will be distributed in the school.

In addition, a professional and/or academic background in journalism is necessary for the adviser, who will be the one caught in the crossfire of the fight for expression. "The happiest and most efficient situation is that in which the adviser is permitted and prepared to serve in the capacity of adviser alone."[72]

The *Tinker* decision gave the student the status of "citizen" under the law. Perhaps, considering the current trend, "a wiser observation would be that the U.S. Supreme Court through the *Tinker v. Des Moines Independent School District* decision has given the student the leverage of a 'preferred citizen' under the law."[73]

Indeed, "the times they are a-changing," and education and the media reflect those changes.

FOOTNOTES

1. *Tinker v. Des Moines Independent School District*, 393 U.S. 503 (1969).
2. James A. Lumpp, "High School Press Restrictions," *Freedom of Information Center Report* No. 329, October, 1974, p. 3.
3. Eileen S. Sullivan, "After Tinker: The Student's Right to Free Expression," *Wilson Library Bulletin*, October, 1976, p. 169.
4. *Ibid.*
5. *Schwartz v. Schuker*, 298 F.Supp. 238 (1969).
6. Jack Nelson, ed., *Captive Voices: High School Journalism in America* (New York: Schocken Books, 1974).
7. "Reading Between the Lines," *SE Graphics/Communications*, February, 1975, p. 24.
8. Robert Trager, "Freedom of the Press in College and High School," *Albany Law Review*, 1971, p. 180.
9. *Trachtman v. Anker*, 426 F.Supp. 198, 45 Law Week 2330 (1977).
10. *Gambino v. Fairfax County School Board*, 429 F.Supp. 731, 45 Law Week 2414 (1977).
11. Stephen J. Cohen, "Sex and the Farm News," *The Quill*, February, 1977, p. 27.
12. *Ibid.*
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*
16. It is still mandatory for a suit of a minor to be brought by an adult in the minor's name, but it must be the rights of the student that are violated (Sullivan, p. 171). Lauren Boyd's father opposed the action taken by the students and refused to file for his daughter (Cohen, p. 30).
17. *Baughman v. Freienmuth*, 478 F.2d 1345 (1973).
18. 45 Law Week 2414.
19. *Ibid.*
20. *Ibid.*
21. Cohen, p. 30.
22. 45 Law Week 2414.
23. Thomas J. Flygare, "School-Sponsored Student Newspapers Are Entitled to First Amendment Protection," *Phi Delta Kappan*, p. 768.
24. *Ibid.* See also *Lehman v. City of Shaker Heights*, 418 U.S. 298, 42 Law Week 5116 (1974).
25. 45 Law Week 2414.
26. Flygare, p. 768.
27. Cohen, p. 30.
28. *Ibid.*
29. 45 Law Week 2330.
30. *Ibid.*
31. *Ibid.*
32. *Ibid.*
33. *Ibid.*
34. Robert Trager, *Student Press Rights* (Urbana, Illinois: Journalism Education Association and ERIC Clearinghouse on Reading and Communication Skills, 1974), p. 75.
35. George E. Stevens and John B. Webster, *Law and the Student Press* (Ames: Iowa State University Press, 1973), p. 24. See also *Quarterman v. Byrd*, 453 F.2d 54 (1971); and *Baughman v. Freienmuth*, 478 F.2d 1345 (1973).
36. *Nitzberg v. Parks*, 525 F.2d 378 (1975).
37. "U.S. Court of Appeals in Nitzberg Case Finds Baltimore County Prior Review Rules Unconstitutional," *Press Censorship Newsletter*, April-May, 1976, p. 139.
38. *Leibner v. Sharbough*, 429 F.Supp. 744, 45 Law Week 2414 (1977).
39. Flygare, p. 768.
40. 45 Law Week 2414.
41. *Ibid.*
42. *Ibid.*
43. *School Law News*, April 1, 1977, p. 6.
44. "Maryland Court Rejects School Board Publications Regulation as Too Vague," *Newspaper Fund Newsletter*, May, 1975, p. 1.
45. Flygare, p. 769.
46. *Near v. Minnesota*, 283 U.S. 697 (1931).
47. *Ibid.*
48. *Lowell v. City of Griffen*, 303 U.S. 444 (1938).
49. *Kingsley v. New York*, 360 U.S. 684 (1959).
50. *Times Film Corp. v. City of Chicago*, 365 U.S. 43 (1961).
51. *Ibid.*
52. *Ibid.*
53. *Freedman v. Maryland*, 380 U.S. 51 (1965).
54. *American Bar Association Journal*, May, 1975, p. 626.
55. Cohen, p. 28.
56. Nelson, p. 31.
57. Bill Ward, "Student Press Law Center," *Scholastic Editor*, March, 1977, p. 9.
58. Nelson, p. 29.
59. *Ibid.*, p. 30.
60. "Schools," *Newsletter on Intellectual Freedom*, May, 1977, p. 72.
61. *Ibid.*
62. "Indiana High School Press Advisor Fired for Student Articles on Sex Problems; Settles for $1,000," *Press Censorship Newsletter*, April-May, 1976, p. 139.
63. *Ibid.*
64. Kay Lockridge, "The Next Editor You See in Court May Be Your Babysitter," *The Quill*, May, 1976, p. 24.
65. Christopher Fager, "Censorship, Lack of Funds Plaguing High School Press," *Publishers' Auxiliary*, Jan. 23, 1977, p. 14.
66. Andrew Karp, "School Newspapers Have the Right to Freedom of the Press," *Seventeen*, June, 1976, p. 88.
67. Fager, p. 14.
68. Harry Walters, "High School Confidential," *Newsweek*, May 26, 1975, p. 60.
69. "High School Paper Rights Said Limited," *Editor and Publisher*, Aug. 30, 1975, p. 18.
70. Nelson, p. 49.
71. Lockridge, p. 22.
72. *Ibid.*, p. 24.
73. Sullivan, p. 171.